

HOUSE BILL 2240
By West

AN ACT to amend Tennessee Code Annotated, Title 67, Chapter 5, relative to the deferral of certain property taxes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 67, Chapter 5, Part 7, is amended by adding the following as a new section thereto:

Section _____. (a) As used in this act, unless the context otherwise requires:

(1) "Assessor" means the county assessor or, if the taxes to be deferred are special assessments, an official designated by a unit of local government to collect special assessments;

(2) "Department" means the Tennessee department of revenue;

(3) "Equity interest" means the current assessed valuation of the qualified property times the fraction necessary to convert that figure to full market value minus any outstanding debts or liens on that property. In the case of qualifying property not having a separate assessed valuation, the appraised value as determined by a qualified real estate appraiser shall be used instead of the current assessed valuation;

(4) "Homestead" means the land and buildings thereon, including a condominium or a dwelling unit in a multi-dwelling building that is owned and operated as a cooperative, occupied by the taxpayer as his or her residence or which are temporarily unoccupied by the taxpayer because such taxpayer is temporarily residing, for not more than one (1) year, in a licensed facility;

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(5) "Household income" has the meaning ascribed to taxpayer's annual income cited in Tennessee Code Annotated, Section 67-5-702(a)(2);

(6) "Qualifying property" means a homestead which:

(i) the taxpayer or the taxpayer and the taxpayer's spouse own in fee simple or are purchasing in fee simple under a recorded instrument of sale;

(ii) is not income-producing property; and

(iii) is not subject to a lien for unpaid real estate taxes when a claim under this act is filed;

(7) "Tax deferred property" means the property upon which property taxes are deferred under this act;

(8) "Taxpayer" means an individual whose household income for the year is no greater than twenty-five thousand dollars (\$25,000); and

(9) "Property taxes" or "taxes" means the taxes on real property for which the taxpayer would be liable under the property tax code, including special service area taxes, and special assessments on benefited real property for which the taxpayer would be liable to a unit of local government.

(b)(1) A taxpayer may, on or before forty-five (45) days preceding the tax delinquent date for property taxes due and payable by the taxpayer, apply to the county assessor of the county where such taxpayer's qualifying property is located, or to the official designated by a unit of local government to collect special assessments on the qualifying property, as the case may be, for a deferral of all or a part of property taxes payable during that year for the preceding year in the case of property taxes other than special assessments, or for a deferral of any installments payable during that year in the case of special assessments, on all or part of the taxpayer's qualifying property. The application shall be on a form prescribed by the department and furnished by the assessor, showing that:

(i) The applicant will be sixty-five (65) years of age or older by June 1 of the year for which a tax deferral is claimed; and

(ii) Describing the property and verifying that the property is qualifying property as defined in subsection (a); and

(iii) Certifying that the taxpayer has owned and occupied as his or her residence such property or other qualifying property in the state for at least three (3) years except for any periods during which the taxpayer may have temporarily resided in a nursing or sheltered care home; and

(iv) Specifying whether the deferral is for all or a part of the taxes, and, if for a part, the amount of deferral applied for.

As to qualifying property not having a separate assessed valuation, the taxpayer shall also file with the county assessor a written appraisal of the property prepared by a qualified real estate appraiser together with a certificate signed by the appraiser stating that he or she has personally examined the property and setting forth the value of the land and the value of the buildings thereon occupied by the taxpayer as the taxpayer's residence.

(2) The assessor shall grant the tax deferral provided that the owner or owners of such real property have entered into a tax deferral and recovery agreement with the assessor on behalf of the county or other unit of local government, which agreement expressly states:

(i) That the total amount of taxes deferred under this section, plus interest, for the year for which a tax deferral is claimed as well as for those previous years for which taxes are not delinquent and for which such deferral has been claimed may not exceed eighty percent (80%) of the taxpayer's equity interest in the property for which taxes are to be deferred and that, if the total deferred taxes plus interest equals eighty percent (80%) of the taxpayer's equity

interest in the property, the taxpayer shall thereafter pay the annual interest due on such deferred taxes plus interest so that total deferred taxes plus interest will not exceed such eighty percent (80%) of the taxpayer's equity interest in the property;

(ii) That any property taxes deferred under this section and any interest accrued thereon at the rate of six percent (6%) per year are a lien on the real estate and improvements thereon until paid. No sale or transfer of such real property may be legally closed and recorded until the taxes which would otherwise have been due on the property, plus accrued interest, have been paid unless the assessor certifies in writing that an arrangement for prompt payment of the amount due has been made with his or her office. The same shall apply if the property is to be made the subject of a contract of sale;

(iii) That upon the death of the taxpayer claiming the deferral the heirs-at-law, assignees or legatees shall have first priority to the real property upon which taxes have been deferred by paying in full the total taxes which would otherwise have been due, plus interest. However, if such heir-at-law, assignee, or legatee is a surviving spouse, the tax deferred status of the property shall be continued during the life of that surviving spouse if the spouse is fifty-five (55) years of age or older within six (6) months of the date of death of the taxpayer and enters into a tax deferral and recovery agreement before the time when deferred taxes become due under this section. Any additional taxes deferred, plus interest, on the real property under a tax deferral and recovery agreement signed by a surviving spouse shall be added to the taxes and interest which would otherwise have been due, and the payment of which has been postponed during the life of such surviving spouse, in determining the eighty percent (80%) equity requirement provided by this section;

(iv) That if the taxes due, plus interest, are not paid by the heir-at-law, assignee or legatee or if payment is not postponed during the life of a surviving spouse, the deferred taxes and interest shall be recovered from the estate of the taxpayer within one (1) year of the date of his or her death. In addition, deferred property taxes and any interest accrued thereon are due within ninety (90) days after any tax deferred property ceases to be qualifying property as defined in subsection (a).

(v) That any joint owner or mortgagee holding a mortgage on such property has given written prior approval for such agreement, which written approval shall be made a part of such agreement;

(vi) That a guardian for a person under legal disability appointed for a taxpayer who otherwise qualifies under this act may act for the taxpayer in complying with this act; and

(vii) That a taxpayer or such taxpayer's agent has provided to the satisfaction of the assessor sufficient evidence that the qualifying property on which the taxes are to be deferred is insured against fire or casualty loss for at least the total amount of taxes which have been deferred. If the taxes to be deferred are special assessments, the unit of local government making the assessments shall forward a copy of the agreement entered into pursuant to this section and the bills for such assessments to the county assessor of the county in which the qualifying property is located.

(c) In the case of each tax deferral and recovery agreement entered into between the assessor and the owner or owners of qualifying property, the assessor shall forthwith cause to be recorded with the recorder of the county in which the qualifying property is located a statement of their action which shall constitute a lien upon the property and improvements thereon covered by such agreement for such taxes as have

been deferred under the provisions of this section, plus accrued interest as provided for by subsection (b). In the case of a dwelling unit in a multi-dwelling building that is owned and operated as a cooperative, the lien shall be upon only that portion of the real estate that constitutes a homestead exemption occupied by the taxpayer. The statement shall name the owner or owners and shall include a description of the real estate adequate for identification. The filing fee for such statement shall be paid by the county or other unit of local government and shall be added to and become a part of the deferred taxes due.

(d) The county assessor shall note on the books each claim for deferral of property taxes which meets the requirements of subsection (b) and, when taxes are extended, shall send to the department the tax bills, including special assessment bills forwarded to the county assessor under subsection (b).

(e) All or any part of taxes deferred under this act and the accrued interest thereon, which are not due under a valid deferral and recovery agreement, may be paid to the assessor at any time by the taxpayer or the taxpayer's spouse, or, if no objection is made by the taxpayer, within ten (10) days after the assessor mails the taxpayer a written notice of the tender of such a payment, by a child, heir or next of kin of the taxpayer or other person claiming a legal or equitable interest in the property. In the absence of a valid agreement to the contrary and except as otherwise provided by law, such a payment by a person other than the taxpayer or the taxpayer's spouse confers no interest in the property nor claim against the estate. Payments made under this section shall be applied first against accrued interest and any remainder against the deferred taxes and do not affect the deferred tax status of the property.

(g) When any deferred taxes, including interest, are collected, the moneys shall be credited to a special account in the treasury of the unit of local government and the assessor shall notify the treasurer of the unit of local government of the properties for

which the taxes were collected by setting forth a description of the property and the amount of taxes and interest collected for each property.

(h) If payment is not made when required by this section, tax sale proceedings may be instituted pursuant to this title.

SECTION 4. This act shall take effect July 1, 1998, the public welfare requiring it.